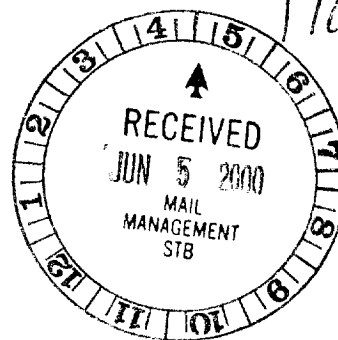


THOMPSON  
HINE & FLORY LLP

*Attorneys at Law*



June 5, 2000

Via Hand Delivery

The Honorable Vernon A. Williams  
Secretary  
Office of the Secretary  
Surface Transportation Board  
1925 K Street, N.W.  
Washington, D.C. 20423-0001

RECEIVED  
Office of the Secretary

JUN 05 2000

Part of  
John K. Maser

ATTN: STB Ex Parte No. 582 (Sub-No.1)

Re: STB Ex Parte No. 582 (Sub-No.1); *Major Rail Consolidation Procedures*

Dear Secretary Williams:

Please find enclosed for filing in the above-referenced docket an executed original and twenty-five (25) copies of the Reply Comments filed on behalf of American Forest & Paper Association. An extra copy of this filing is enclosed for stamping and return to our office. Also enclosed is a diskette compatible to WordPerfect 7.0 with a copy of the Reply Comments.

Should you have any questions concerning this filing, please do not hesitate to contact the undersigned. Thank you for your cooperation and assistance in this matter.

Respectfully submitted,

John K. Maser III

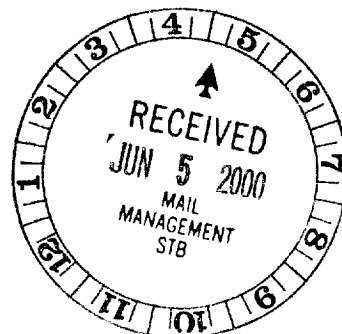
*Enclosures*

**BEFORE THE  
SURFACE TRANSPORTATION BOARD**

---

STB Ex Parte No. 582 (Sub No. 1)  
MAJOR RAIL CONSOLIDATION PROCEDURES

---



**REPLY COMMENTS OF AMERICAN FOREST & PAPER ASSOCIATION**

---

RECEIVED  
Office of the Secretary

JUN 05 2000

Part of  
Public Record

David B. Hershey  
Director, Transportation Policy  
AMERICAN FOREST & PAPER ASSOCIATION  
1111 19<sup>th</sup> Street, NW  
Washington, DC 20036

By: John K. Maser, III  
THOMPSON HINE & FLORY LLP  
1920 N Street, NW, Suite 800  
Washington, DC 20005  
(202) 331-8800

*Attorney for American Forest & Paper Association*

June 5, 2000

**BEFORE THE  
SURFACE TRANSPORTATION BOARD**

---

STB Ex Parte No. 582 (Sub No. 1)  
MAJOR RAIL CONSOLIDATION PROCEDURES

---

**REPLY COMMENTS OF AMERICAN FOREST & PAPER ASSOCIATION**

---

American Forest & Paper Association ("AF&PA") hereby submits these reply comments in accordance with the procedural schedule adopted by the Board in this important proceeding. The identity and interest of AF&PA were set forth in AF&PA's opening comments herein, dated May 16, 2000. As the fourth largest user of rail transportation in the United States, the forest products and the paper industry's interest in the issues being addressed by the Board in this proceeding is substantial and apparent.

In its opening comments AF&PA emphasized that its members are concerned about recent changes in the competitive dynamics of the national rail structure and that this evolving structure will not sustain the low-cost, efficient transportation infrastructure that is needed over the longer term to be globally competitive. In AF&PA's view, vigorous rail-to-rail competition is necessary for a healthy and competitive rail system. Accordingly, AP&PA strongly urged the Board to revise its consolidation regulations so as to affirmatively enhance competition to the maximum extent permissible under the Board's authority.

AF&PA notes that many other commenters in this proceeding also support an active pro-competitive approach to guide the Board in its development of improved policies and

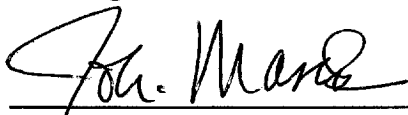
procedures. Indeed, there is a growing consensus among members of the rail customer community in this regard, particularly in the light of the increased concentration of railroad market power in this country and the danger of the emergence of a railroad duopoly in North America. This consensus is coalescing around certain "Principles for Reform of Merger Proceedings and Related Regulation," a copy of which is attached to these reply comments. AF&PA strongly supports these pro-competitive principles. As stated therein, the Board's efforts in Ex Parte 582 (Sub-No. 1) should include, but not be limited to, all of the recommendations in this proceeding that would:

1. Increase competition among railroads;
2. Improve service and safety; and
3. Address any problems or flaws – present or future – that result directly or indirectly from rail mergers.

Respectfully submitted,

David B. Hershey  
Director, Transportation Policy  
AMERICAN FOREST & PAPER ASSOCIATION  
1111 19<sup>th</sup> Street, NW  
Washington, DC 20036

By:

  
John K. Maser, III  
THOMPSON HINE & FLORY LLP  
1920 N Street NW, Suite 800  
Washington, DC 20036  
(202) 331-8800

*Attorney for American Forest & Paper Association*

June 5, 2000  
104380

## **PRINCIPLES FOR REFORM OF MERGER PROCEEDINGS AND RELATED REGULATION**

Upon review of the statements filed in Ex Parte No. 582 (Sub-No. 1), many members of the rail customer community recognize our growing consensus on issues raised by the concentration of railroad market power in the U.S. and the danger of the emergence of two huge monopoly railroads in North America. Our consensus is reflected in the following pro-competitive principles, which should guide the Surface Transportation Board in its development of improved policies and procedures:

- ◆ Stronger action must be taken to hold merging railroads accountable for their promises of improved service and more efficient operations.
- ◆ The severe service problems that have resulted from past railroad mergers must be prevented and/or mitigated through effective remedies, including performance guarantees, compensation and access to other railroads.
- ◆ Current regulatory policies, including the bottleneck decision, the "one-lump" theory, and the "2-to-1" rule, have failed to prevent the reduction of competition among major railroads, which now enjoy unprecedented market power.
- ◆ The regulatory policies of the past, which the STB has recognized as inadequate and which even many railroads are now recognizing as flawed, should be replaced by new policies aimed at promoting competition.
- ◆ Access remedies such as trackage rights and switching on fair and economic terms should be more readily available, whether or not there are future mergers.
- ◆ Contractual and operational barriers to competition from smaller railroads should be eliminated or reduced, whether or not there are future mergers.
- ◆ Gateways for all major routings should remain open on reasonable terms.
- ◆ Adverse impacts of rail consolidations on the safety of rail operations and on the interests of rail labor should be mitigated.
- ◆ Cross-border mergers should not interfere with effective regulation and the enhancement of competition; and
- ◆ Railroad mergers can no longer be considered in isolation.

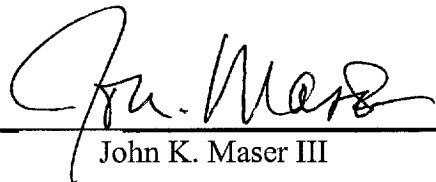
The need for improved and enhanced competition along these lines is so strong and immediate that the STB should use the full extent of its authority to revise its policies consistent with these principles. The Board's efforts in Ex Parte No. 582 (Sub-No. 1) should include, but not be limited to, all of the recommendations in the proceeding that would:

1. Increase competition among railroads;
2. Improve service and safety; and
3. Address any problems or flaws—present or future—that result directly or indirectly from rail mergers.

Recognizing that the Board may not have the necessary authority to fully achieve comprehensive policy reform consistent with all of the above-listed principles, the rail customer community will continue to press for congressional action that would provide the necessary legislative direction to achieve these principles.

**CERTIFICATE OF SERVICE**

I hereby certify that on this 5<sup>th</sup> day of June, 2000, I served copies of the foregoing Reply Comments upon all parties of record by first-class mail, postage prepaid, in accordance with the Board's order in this proceeding and with its Rules of Practice.

  
\_\_\_\_\_  
John K. Maser III